

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALEXIAN BROTHERS MEDICAL CENTER,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 12 C 3517
)	
UNITED FOOD AND COMMERCIAL WORKER UNIONS AND EMPLOYERS MIDWEST HEALTH BENEFITS FUND,)	
)	
)	
Defendant.)	

MEMORANDUM ORDER

In its response to this Court's June 22 memorandum order ("Order"), defendant (referred to in the Order and referred to here as "Health Benefits Fund" for convenience) has filed an Amended Answer to the Complaint brought against it by Alexian Brothers Medical Center. For the most part that new responsive pleading no longer manifests an approach to pleading that serves the goal represented by Fed. R. Civ. P. ("Rule") 8: that of dealing in plain language with the concept of notice pleading incumbent on defendants as well as plaintiffs. But there are a few aspects of the Amended Answer that appear to muddy the waters needlessly.

Thus Amended Answer ¶ 3 asserts a Rule 8(b)(5) disclaimer, when any lawyer should know how to ascertain in about 15 minutes or less whether a given Illinois corporation is a business corporation or one that is not-for-profit. Saying then that one has "insufficient information to form a belief" in that respect is really the equivalent of putting on blinders.

Next, another Rule 8(b)(5) disclaimer is set out in Amended Answer ¶ 6. Yet the rest of the Amended Answer, which is chock-full of confirmations that Health Benefits Fund must be well aware of the identity of the Fund Participant who has an identification number ending as 6680, would appear to render the disclaimer inappropriate.

Finally, Amended Answer ¶ 8 also advances the same disclaimer on the ground that the corresponding paragraph of the Complaint "fails to identify 'the following hospital services from ALEXIAN.'" That assertion obviously misreads the Complaint's reference to "the following hospital services" as speaking of the nature of the services rendered, rather than meaning "hospital services in the following amounts." And when read in the latter sense, Amended Answer ¶ 13 really confirms Health Benefits Fund's actual knowledge, thus rendering the disclaimer less than candid.

Health Benefits Fund's counsel must therefore return to the drawing board once again. Counsel is ordered to file an appropriate amendment to the Amended Answer (and not a fully self-contained Second Amended Answer) addressing the matters identified here on or before July 16, 2012.



Milton I. Shadur
Senior United States District Judge

Date: July 2, 2012.